

**SETTLEMENT AGREEMENT BETWEEN THE MISSOURI
STATE BOARD OF REGISTRATION FOR THE HEALING ARTS
AND DAVID LANDAU, MD**

COME NOW David Landau M.D. (Licensee) and the Missouri State Board of Registration for the Healing Arts (the Board) and enter into this agreement for the purpose of resolving the issue of whether Licensee's physician and surgeon's license is subject to discipline. Licensee and the Board jointly stipulate and agree to a final disposition of this matter as described below, pursuant to sections 536.060 and 621.045, RSMo.¹

1. Licensee acknowledges that Licensee understands the various rights and privileges afforded a licensee by law, including the right to a hearing of the charges; the right to appear and be represented by legal counsel; the right to have all charges proved upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing; the right to present evidence; the right to a decision based upon the record; and the right to present evidence in mitigation of discipline at a hearing before the Board. Having been advised of these rights, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this agreement.
2. Licensee acknowledges that Licensee may, within 15 days of the effective date of this agreement, submit this agreement to the Administrative Hearing Commission, pursuant to section 621.045, to determine whether the facts alleged in this settlement agreement constitute grounds to discipline Licensee's license.
3. Licensee acknowledges that Licensee has been advised of the right to consult legal counsel in this matter.
4. The Board and Licensee agree the discipline set forth in the disciplinary order in Part III is based on the allegations specified in Parts I and II. Licensee agrees that the Board may take further action against Licensee's license based on facts or conduct not specifically mentioned in this document, whether presently known to the Board or later discovered.

¹ All citations to Missouri statute are to the Revised Statutes of Missouri (RSMo) (Cum. Supp. 2018), unless otherwise stated.

5. Licensee understands and agrees that the Board will maintain this agreement as an open record as required by Chapters 324, 334 and 610, RSMo, and it will report this agreement to the National Practitioner Data Bank (NPDB) and the Federation of State Medical Boards (FSMB).

I. JOINT STIPULATION OF FACTS

Based upon the foregoing, the Board and Licensee jointly stipulate and agree to the following:

6. The Board is an agency of the state of Missouri created and established pursuant to section 334.120, RSMo, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.
7. Licensee is licensed by the Board as a physician and surgeon, License No. 2015022183, which was first issued on July 6, 2015. Licensee's license has been current and active since it was issued.
8. On April 16, 2018, the Arizona Medical Board issued an Order for Letter of Reprimand, reprimanding Licensee based on a finding Licensee engaged in unprofessional conduct by failing to maintain adequate patient records, knowingly making a false or misleading statement to the Arizona board and prescribing medication without a physical examination or established doctor-patient relationship. The Arizona order is attached as **Exhibit 1**. The Arizona board's action was based on Licensee's treatment of a friend and patient, "LA," who Licensee treated in Vermont and Arizona.
9. The Arizona board found Licensee denied communication with the Vermont Board of Medical Practice but ultimately acknowledged such communication, thereby admitting to false or misleading statements to the Arizona board. The Arizona board found Licensee wrote nine prescriptions for LA between 2011 and 2016 and maintained one progress note documenting his care of LA.
10. The Arizona board's disciplinary order constitutes a final disciplinary action by another state.
11. The facts stated above constitute cause to discipline Licensee's license pursuant to sections 334.097, 334.100.2(4)(h), 334.100.2(8) and 334.100.2(15), RSMo.

II. JOINT CONCLUSIONS OF LAW

12. Cause exists to discipline Licensee's license pursuant to sections 334.097, 334.100.2(4)(h), 334.100.2(8) and 334.100.2(15), RSMo. The Board is authorized to discipline Licensee's license pursuant to sections 334.100.2 and 334.100.4. The statutes cited provide as follows:

334.100.2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(4)(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination including failing to establish a valid physician-patient relationship pursuant to section 334.108, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the Armed Forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(15) Knowingly making a false statement, orally or in writing to the board;

334.097.1. Physicians shall maintain an adequate and complete patient record for each patient and may maintain electronic records provided the record-keeping format is capable of being printed for review by the state board of registration for the healing arts. An adequate and complete patient record shall include documentation of the following information:

- (1) Identification of the patient, including name, birthdate, address and telephone number;
- (2) The date or dates the patient was seen;
- (3) The current status of the patient, including the reason for the visit;

- (4) Observation of pertinent physical findings;
- (5) Assessment and clinical impression of diagnosis;
- (6) Plan for care and treatment, or additional consultations or diagnostic testing, if necessary. If treatment includes medication, the physician shall include in the patient record the medication and dosage of any medication prescribed, dispensed or administered;
- (7) Any informed consent for office procedures.

334.100.4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

- 13. Licensee's reprimand by the Arizona board constitutes a final disciplinary action against Licensee's license in another state.
- 14. The Arizona board found Licensee engaged in conduct which is also cause to discipline a licensee in Missouri pursuant to sections 334.097, 334.100.2(4)(h), and 334.100.2(15), RSMo.
- 15. The Board is authorized to take disciplinary action against Licensee's license under sections 334.100.2 and 334.100.4, RSMo.

III. ORDER ON DISCIPLINE

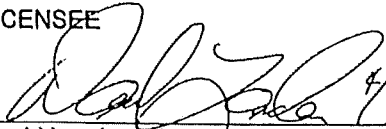
Based on the foregoing, the parties mutually agree and stipulate that this order shall constitute the disciplinary order entered in this matter by the Board pursuant to 621.045, RSMo, and the Board's authority under Chapter 334. This agreement, including the disciplinary order, is effective on the date entered and finalized by the Board, as indicated by the signature of the Board's executive director or the director's designee. The following are the terms of the disciplinary order:


16. Licensee is hereby subject to this PUBLIC REPRIMAND.
17. The physician and surgeon's license issued by the Board to Licensee, License No. 2015022183, is hereby subject to a RESTRICTION prohibiting controlled substance prescribing for a period of five years from the effective date of this order.
18. For purposes of this disciplinary order and the restriction of Licensee's license, a controlled substance is defined as that term is defined by section 195.010(6), RSMo (Cum. Supp. 2018), which is as follows: "a drug, substance or immediate precursor in Schedules I through V" listed in Chapter 195 of the Revised Statutes of Missouri.
19. Within 12 months of the effective date of this disciplinary order, Licensee shall successfully complete, at Licensee's expense, a continuing education course in medical record-keeping and provide to the Board certification of successful completion of the course. The course must be approved by the Board or its designee.
20. Within 12 months of the effective date of this disciplinary order, Licensee shall successfully complete, at Licensee's expense, a continuing education course in ethics and boundaries and provide to the Board certification of successful completion of the course. The course must be approved by the Board or its designee.
21. Failure to timely complete a required approved course, without leave granted by the Board, shall constitute violation of a Board disciplinary order, which may result in additional discipline of Licensee's license, consistent with the Board's disciplinary authority pursuant to sections 334.100.2(4)(p) and 324.042.
22. If Licensee is now licensed in other jurisdictions, Licensee shall forward written notice of this disciplinary action to the medical licensing authorities of those jurisdictions within 30 days of the effective date of this agreement. Licensee shall submit to the Board a copy of the notice at the same time the notice is sent to the relevant licensing authority. If Licensee is not licensed in other jurisdictions, Licensee shall notify the Board of that fact, in writing, within 30 days of the effective date of this agreement.

23. Licensee shall, within 30 days of the effective date of this agreement, forward written notice of this disciplinary action to all current employers and hospitals, nursing homes, out-patient centers, clinics, and any other facility where Licensee now practices or has privileges. Licensee shall submit to the Board a copy of the notice at the same time the notice is sent to the relevant employer or facility. If Licensee does not now have an employer, staff privileges or practice at any facility, Licensee shall notify the Board of that fact, in writing, within 30 days of the effective date of this agreement.
24. Licensee shall, within 30 days of the effective date of this agreement, forward written notice of this disciplinary action to any allied health care professionals now supervised by Licensee. Licensee shall submit to the Board a copy of the notice at the same time the notice is sent to allied health care professionals supervised by Licensee. If Licensee does not supervise any allied health professionals, Licensee shall notify the Board of that fact, in writing, within 30 days of the effective date of this agreement.
25. All notices or other materials Licensee is required to submit to the Board in this agreement shall be submitted by Licensee to the State Board of Registration for the Healing Arts, Attention: Enforcement, P.O. Box 4, Jefferson City, Missouri 65102.
26. This agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 334, RSMo, by Licensee not specifically mentioned in this document, whether now known to the Board or later discovered.
27. Licensee hereby waives and releases the Board, its members, and any of its employees, agents, or attorneys, including any former board members, employees, agents, and attorneys, of and from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to any claims for attorney's fees and expenses, including any claims pursuant to section 536.087, RSMo, or any claim arising under 42 USC 1983, which may be based upon, arise out of, or relate to any of the matters raised in this agreement, or from the negotiation or execution of this agreement. The parties acknowledge that this paragraph is severable from the remaining portions of

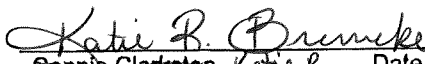
this agreement in that it survives in perpetuity even in the event that any court of law or administrative tribunal deems this agreement or any portion thereof void or unenforceable.


LICENSEE


David Landau, MD
Licensee
Date 4/15/21


Attorney for Licensee
Missouri Bar No. 59622
Date 4/19/21

BOARD


Katie R. Brenneke
Interim Executive Director
Date


R. Lucas Boling
Associate General Counsel
Missouri Bar No. 35517
Date 04/20/2021

EFFECTIVE THIS 20th DAY OF April, 2021.

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

DAVID LANDAU, M.D.

Holder of License No. 40941
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-17-0777A

**ORDER FOR LETTER
OF REPRIMAND; AND
CONSENT TO THE SAME**

David Landau, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Order for a Letter of Reprimand; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 40941 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-17-0777A after receiving notification from the Vermont Department of Health, Board of Medical Practice ("Vermont Board") that Respondent had prescribed controlled substances to a patient ("LA") in Vermont without a license to practice medicine issued by the Vermont Board. The complaint also stated that Respondent provided a statement to the Vermont Board's investigator wherein he admitted to prescribing controlled substances to LA while in Vermont.

4. During the course of the Board's investigation, Respondent denied having communicated with the Vermont Board. Board staff subsequently obtained an email sent by Respondent to a member of the Vermont Board staff. Respondent ultimately acknowledged communication with the Vermont Board.

EXHIBIT

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5. Between 2011 and 2016, Respondent wrote a total of nine prescriptions for controlled substances for LA. During the course of the Board's investigation, Respondent stated that LA was a personal friend. Respondent produced one progress note documenting his care of LA and an order for lab work issued in Vermont. Respondent's records also included two retrospective drug utilization reviews conducted by insurers for LA, indicating that LA was also receiving opioid medications from four other providers.

6. An Arizona Controlled Substance Prescription Monitoring Program report indicated that Respondent also prescribed controlled substances to LA in Arizona in 2011. Respondent did not provide any records regarding the prescriptions issued to LA in Arizona.

CONCLUSIONS OF LAW

a. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

b. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(e) ("Failing or refusing to maintain adequate records on a patient.").

c. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(j) ("Knowingly making a false or misleading statement to the board or on a form required by the board or in a written correspondence, including attachments, with the board.").

d. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(ss) ("Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical examination of that person or has previously established a doctor-patient relationship. The physical or mental health status

1 examination may be conducted during a real-time telemedicine encounter with audio and
2 video capability, unless the examination is for the purpose of obtaining a written
3 certification from the physician for the purposes of title 36, chapter 28.1.").

4 **ORDER**

5 IT IS HEREBY ORDERED THAT:

6 1. Respondent is issued a Letter of Reprimand.

7
8 DATED AND EFFECTIVE this 16th day of April, 2018.

9
10 ARIZONA MEDICAL BOARD

11 By Patricia E. McSorley
12 Patricia E. McSorley
13 Executive Director

14 **CONSENT TO ENTRY OF ORDER**

15 1. Respondent has read and understands this Consent Agreement and the
16 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent
17 acknowledges he has the right to consult with legal counsel regarding this matter.

18 2. Respondent acknowledges and agrees that this Order is entered into freely
19 and voluntarily and that no promise was made or coercion used to induce such entry.

20 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to
21 a hearing or judicial review in state or federal court on the matters alleged, or to challenge
22 this Order in its entirety as issued by the Board, and waives any other cause of action
23 related thereto or arising from said Order.

24 4. The Order is not effective until approved by the Board and signed by its
25 Executive Director.

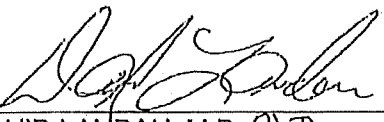
1 5. All admissions made by Respondent are solely for final disposition of this
2 matter and any subsequent related administrative proceedings or civil litigation involving
3 the Board and Respondent. Therefore, said admissions by Respondent are not intended
4 or made for any other use, such as in the context of another state or federal government
5 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
6 any other state or federal court.

7 6. Upon signing this agreement, and returning this document (or a copy thereof)
8 to the Board's Executive Director, Respondent may not revoke the consent to the entry of
9 the Order. Respondent may not make any modifications to the document. Any
10 modifications to this original document are ineffective and void unless mutually approved
11 by the parties.

12 7. This Order is a public record that will be publicly disseminated as a formal
13 disciplinary action of the Board and will be reported to the National Practitioner's Data
14 Bank and on the Board's web site as a disciplinary action.

15 8. If the Board does not adopt this Order, Respondent will not assert as a
16 defense that the Board's consideration of the Order constitutes bias, prejudice,
17 prejudgment or other similar defense.

18 9. *Respondent has read and understands the terms of this agreement.*

19 
20 _____
21 DAVID LANDAU, M.D., Ph.D.

DATED: 4/3/18

22 EXECUTED COPY of the foregoing mailed
23 this 16th day of April, 2018 to:

24 J. Arthur Eaves
25 Sanders & Parks
3030 N 3rd St, Suite 1300
Phoenix, AZ 85012-3099

1 Attorney for Respondent

2 ORIGINAL of the foregoing filed
3 this 16th day of April, 2018 with:

4 Arizona Medical Board
5 1740 West Adams Street, Suite 4000
6 Phoenix, Arizona 85007

7 Michelle Busby
8 Board staff

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